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February 13, 2025

Honorable Mary Kay Vyskocil
United States District Judge
United States District Court
For the Southern District of New York
500 Pearl Street
New York, NY 1007-1312

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #:
DATE FILED: 4/3/2025

Re: *Ness Healthcare, NFP v. Starr Surplus Lines Ins. Co.*, Case No. 1:23-cv-9684

Dear Judge Vyskocil:

Plaintiff Ness Healthcare, d/b/a Northlake Behavioral Health System (“Ness”) and Defendant Starr Surplus Lines Insurance Company (“Starr”) (collectively the “Parties”) hereby submit this joint letter subject to the Court’s order and the Parties request to extend discovery deadlines.

I. Update on Discovery

To date, the Parties have engaged in the following discovery:

- December 13, 2023, Starr produced five documents, representing 308 pages.
- March 27, 2024, Starr served its Initial Disclosure pursuant to FRCP 26(a)(1)(A).
- March 27, 2024, Ness served its Initial Disclosure pursuant to FRCP 26(a)(1)(A). On the same day, Ness produced one document, representing 780 pages.
- March 31, 2024, Starr served Requests for the Production of Documents, Set One on Ness.
- April 5, 2024, Starr propounded Interrogatories, Set One on Ness.
- April 5, 2024, Ness issued Requests for the Production of Documents, Set One and Interrogatories, Set One on Starr.
- May 23 – 24, 2024, Starr has the property at issue re-inspected.
- July 22, 2024, Ness produced two documents, representing 351 pages.
- August 26, 2024, Starr provided written objections and responses to Ness’s Set One discovery.
- September 9, 2024, Ness produced one document, representing 40 pages.
- September 9, 2024, Ness responded to Starr’s Set One discovery.
- September 9, 2024, Starr produced 197 documents, representing 339 pages.
- September 24, 2024, the Parties met and conferred regarding Ness’s discovery responses.

- September 24, 2024, Starr served Requests for the Production of Documents, Set Two on Ness.
- October 1, 2024, Starr issued a Rule 30(b)(6) deposition notice on Ness.
- October 7, 2024, Ness responded to Starr's Rule 30(b)(6) deposition notice on Ness, designating three deponents.
- October 9, 2024, Ness produced one document, representing 132 pages.
- October 16, 2024, Ness produced two documents, representing 252 pages.
- October 16, 2024, Starr issued a meet and confer letter addressing Ness's response to its discovery requests.
- October 21, 2024, the Parties met and conferred regarding Ness's document production.
- October 24, 2024, Starr served its document subpoena on Crawford Engineering, Ness's expert.
- October 24, 2024, Starr served its document subpoena on Property Damage Consultant, Ness's expert.
- October 24, 2024, Starr served its document subpoena on third party, Manning, APC.
- October 24, 2024, Starr served its document subpoena on third party, Willis Towers Watson, Ness's insurance broker.
- October 25, 2024, Crawford Engineering produced documents per Starr's document subpoena.
- November 4, 2024, Property Damage Consultant produced documents per Starr's document subpoena.
- November 8, 2024, Willis Towers Watson served objections to Starr's document subpoena.
- November 12, 2024, Starr met and conferred with Willis Towers Watson regarding Starr's document subpoena.
- November 15, 2024, Ness issued Supplemental and/or Amended Answers to Starr's Set One discovery requests.
- November 25, 2024, Ness produced two documents, representing 107 pages.
- December 3, 2024, the Parties met and conferred regarding Ness's document production.
- December 4, 2024, Ness issued further supplemental responses to its prior discovery responses.
- December 5, 2024, Starr served its document subpoena on third party, The Sulzer Group.
- December 11, 2024, Ness produced one document, representing 84 pages (including slip sheets to identify page breaks).
- December 12, 2024, Ness produced four documents, representing 158 pages (including slip sheets to identify page breaks).
- December 30, 2024, Starr emailed Ness a list of documents that remain outstanding per Starr's discovery requests.
- January 8, 2025, the Parties met and conferred regarding Ness's document production.
- January 9, 2025, Willis Towers Watson produced documents per Starr's document subpoena.
- January 10, 2025, Starr met and conferred with Manning, APC regarding Starr's document subpoena.
- January 11, 2025, Starr served its document subpoena on third party, Blackbelt Roofing.
- January 13, 2025, Starr met and conferred with The Sulzer Group regarding Starr's document subpoena.

- January 15, 2025, The Sulzer Group produced documents pursuant to Starr's document subpoena.
- January 21, 2025, Ness produced one document, representing 72 pages (including slip sheets to identify page breaks).
- January 27, 2025, Ness produced two documents, representing 318 pages (including slip sheets to identify page breaks).
- January 27, 2025, Manning produced documents per Starr's document subpoena.
- January 29, 2025, Manning produced additional documents per Starr's document subpoena.
- January 29, 2025, the Parties met and conferred with Ness's expert, Property Damage Consultants, regarding its response to Starr's document subpoena.
- January 29, 2025, Starr emailed Ness a list of documents that remain outstanding per Starr's discovery requests.
- January 30, 2025, Property Damage Consultant produced additional documents per Starr's document subpoena.
- February 3, 2025, Property Damage Consultant produced additional documents per Starr's document subpoena.
- February 5, 2025, Ness provided Starr the naming convention of the buildings used in its documents versus the Policy's Statement of Values.
- February 7, 2025, Starr followed-up with Ness regarding its outstanding document production in response to Starr's discovery requests.

The remaining discovery to be conducted by the Parties includes: (1) collection of outstanding documents from Ness as well as third party, Blackbelt Roofing; (2) lay depositions; (3) expert depositions; and (4) a reservation of rights to complete further written discovery or name witnesses as may become necessary. These efforts will take additional time.

Good cause exists for an extension of the discovery deadlines. An extension of discovery deadlines is necessary for two reasons: (1) the Parties are still completing discovery and will seek this Court's intervention if the Parties cannot come to a resolution of long standing discovery requests/responses by March 14 so that the Parties can proceed with fact witness depositions in April and May 2025; (2) the Parties have engaged in, and continue to engage in, extensive meet and confer efforts in an attempt to resolve these matters as soon as possible. This is the Parties third request for an extension of discovery deadlines.¹

The Parties propose the following extended deadlines:

Deliverable	Current Deadline	Proposed New Deadline
Fact Depositions Completed	1/27/2025 ²	5/27/2025
Fact Discovery Completed	2/6/2025	6/6/2025
Plaintiff's expert reports	1/10/2025	5/10/2025
Defendant's expert reports	2/14/2025	6/16/2025 ³

¹ On June 21, 2024, this Court granted the parties' first request to extend discovery deadline. *See* ECF No. 43. On December 5, 2024, this Court granted the parties' second request to extend discovery deadlines. *See* ECF No. 57.

² A 120-day extension falls on Saturday, January 25, so the proposed deadline falls to the next business day.

³ A 120-day extension falls on Saturday, June 14, 2025, so the proposed deadline falls to the next business day.

Joint Status Letter and pre-motion submission for any contemplated MSJs.	2/13/2025	6/13/2025
Expert Depositions Completed	4/8/2025	8/6/2025
Joint Letter re: Status of the case	4/10/2025	8/8/2025
In person Post-Discovery Conference Location: Courtroom 18C of the Daniel Patrick Moynihan Courthouse, 500 Pearl Street, New York, NY. <i>[If no SJ motion is anticipated, the Post-Discovery conference will serve as a pre-trial conference]</i>	4/18/2025	8/14/2025

II. Contemplated Motions for Summary Judgment

On October 18, 2024, Ness filed two pre-motion submissions with the Court. *See* ECF Nos. 45 and 46. On November 11, 2024, Starr timely responded to Ness's two pre-motion submissions. *See* ECF Nos. 54 and 55. To date, the Court has not ruled on ECF Nos. 45, 46, 54, and 55.

Because discovery continues to be outstanding, it is premature to know if the Parties contemplate any additional motions for summary judgment.

Based upon the foregoing, the Parties respectfully request that the Court extend discovery deadlines and rule on ECF Nos. 45, 46, 54, and 55. Thank you for your consideration. Please let us know if you have any questions.

***Attorneys for Defendant Starr Surplus
Lines Insurance Company***

/s/ Lee Ann Thigpen

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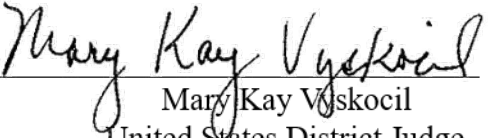
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This request is GRANTED. There will be no further extensions of discovery. The conference that was scheduled to take place on April 21, 2025 is ADJOURNED to August 13, 2025 at 11:30 a.m. A joint status letter and any pre-motion submissions are due one week before the conference. The request at ECF No. 58 is MOOT.

Date: April 3, 2025
New York, New York


Mary Kay Vyskocil
United States District Judge